

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
DONALD C. HUTCHINS)	
)	Civil Action: 04-30126-MAP
Plaintiff)	
)	
v.)	
)	JUDGE MICHAEL PONSOR
CARDIAC SCIENCE, INC.)	
)	
Defendants)	
_____)	

**DEFENDANT COMPLIENT CORPORATION'S MOTION FOR JUDICIAL NOTICE
OF ORDER OF REMAND**

On October 5, 2006, Plaintiff, Donald C. Hutchins, filed a second motion requesting that this Court take judicial notice of his attempted removal of the litigation pending between Complient Corporation and Hutchins in state court in Ohio to the United States District Court for the Northern District of Ohio. Although Hutchins filed a Notice of Removal on September 29, 2006, the Ohio district court found that there was no basis for removal, and has remanded that action. Complient hereby requests that this Court take judicial notice of the Ohio District Court's Order of Remand.

"It is well-accepted that federal courts may take judicial notice of proceedings in other courts if those proceedings have relevance to the matters at hand." Kowalski v. Gagne, 914 F.2d 299, 305 (1st Cir. 1990). See also St. Louis Baptist Temple, Inc. v. FDIC, 605 F.2d 1169, 1172 (10th Cir. 1979) ("Federal courts, in appropriate circumstances, may take notice of proceedings

in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.”). The Ohio district court found that the matter was improvidently removed. See October 18, 2006 Order of Remand, attached hereto. Under 28 U.S.C. § 1446(b), a notice of removal, to be effective, must be filed within thirty days of the defendant’s initial receipt of the complaint in the matter. The complaint in the Ohio action was served on Hutchins in September **2004**. His notice of removal was filed two years too late.

For the foregoing reasons, this Court should take judicial notice of the Order of Remand issued by the District Court in Ohio and lend no weight to Hutchins’ failed attempts to remove the Ohio action.

Respectfully submitted,

s/ Jeffrey J. Lauderdale

WILLIAM E. COUGHLIN (0010874)
COLLEEN MORAN O’NEIL (0066576)
JEFFREY J. LAUDERDALE (0074859)
CALFEE, HALTER & GRISWOLD LLP
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, Ohio 44114
(216) 622-8200
(216) 241-0816 (facsimile)

JOHN J. EGAN (151680)
EGAN, FLANAGAN & COHEN, P.C.
PO Box 9035
67 Market Street
Springfield, MA 01102-9035
(216) 622-8200
FAX (216) 241-0816

Attorneys for Defendant,
Compliant Corporation

CERTIFICATE OF SERVICE

I certify that, on October 20, 2006, I electronically filed a copy of the foregoing Defendant Compliant Corporation's Motion for Judicial Notice of Notice of Order of Remand and that parties to the case, registered with the Court's electronic filing system, will receive electronic notice of such filing. A copy of the foregoing was also served upon the following via first-class U.S. mail on today's date:

Donald C. Hutchins
1047 Longmeadow Street
Longmeadow, Massachusetts 01106
Pro Se

s/ Jeffrey J. Lauderdale
One of the Attorneys for Defendant,
Compliant Corporation